



ZONING ADMINISTRATOR
NOTICE OF DECISION

Date: April 23, 2012
Applicant: Luna Grill
Case No.: PCC-12-012
Address: 2275 Otay Lakes Road, Suite 119, Chula Vista, Ca.
A.P.N.: 595-072-08
Project Planner: Jeff Steichen, Associate Planner

Notice is hereby given that on April 23, 2012, the Zoning Administrator considered a Conditional Use Permit (PCC-12-012) application filed by Luna Grill ("Applicant") to allow the on-site sales and consumption of alcohol at the Luna Grill Restaurant ("Project"), at the Eastlake Village Shopping Center located at 2275 Otay Lakes Road, Suite 119, Chula Vista, Ca. ("Project Site"). The Project Site is zoned Planned Community (PC) Planned Community Village Center (VC-1) zone with a General Plan of Retail Commercial (CR). The Property is owned by Sudberry Development Company, LLC ("Property Owner"). The proposed land use is more specifically described below:

The application requests approval of a Conditional Use Permit to allow for the sale and consumption of beer and wine within an existing restaurant. The restaurant occupies a 2,227 s.f. suite with a capacity of 54 customers. The restaurant currently operates between the hours of 11:00 a.m. and 9:00 p.m. daily. The restaurant has a total of 15 employees, with no more than 8 employees at any one time.

Pursuant to the Eastlake II Planned Community District Regulations, restaurants with alcoholic beverages are conditionally permitted subject to approval of a Conditional Use Permit.

The Director of the Development Services Department has reviewed the proposed Project for compliance with the California Environmental Quality Act and has determined that the Project qualifies for a Class 1 categorical exemption pursuant to Section 15301 (existing facilities) of the State CEQA Guidelines. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030.A of the Chula Vista Municipal Code, has been able to make the Conditional Use Permit findings as required by CVMC Section 19.14.080:

That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.

Luna Grill compliments other restaurants within the same general area and contains nearby access off of Otay Lakes Road. The restaurant is consistent with the types of uses that would be found within a commercial center. The restaurant with incidental alcohol sales would provide

desirable dining opportunities for the Eastlake community and surrounding areas. The restaurant and incidental alcohol sales would provide customary service typically offered by other dine-in restaurants in the area.

That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

The restaurant is located within one of the suites contained within a commercial building fronting along Otay Lakes Road, which contain complimentary restaurant establishments, and includes an outdoor patio area for use by patrons of all of the restaurants located within the building. The conditions include a limitation of alcohol sales to the hours specified in this permit and that alcohol sales can only be conducted indoors, and are prohibited outside the restaurant in the patio area. Other conditions of approval are included that will limit the number of alcoholic beverages sold at one time to customers, prohibit sales to minors, and minimize loitering adjacent to the restaurant. The applicant is required to obtain an Alcoholic Beverage Control license from the State Of California Alcoholic Beverage Control Commission (ABC) for the sales of alcohol complying with all applicable state and local regulations.

That the proposed use will comply with the regulations and conditions specified in the code for such use.

The use requires the Applicant and Property Owner to fulfill conditions and to comply with all applicable regulations and standards specified in the City's Municipal Code. The conditions of this permit are approximately in proportion to the nature and extent of the impacts created by the use in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the use. The use complies with all regulations and conditions specified in the CVMC, including the Planned Community (P-C) Planned Community Village Center District (VC-1) zone, as established under Conditional Use Permit PCC-12-012. The project conditions of approval will require the operation to be in continuing compliance with all applicable city codes and regulations.

That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The General Plan designates the site as Retail Commercial, which permits restaurants that sell alcoholic beverages for onsite consumption, as being consistent with Retail Commercial land uses, based upon approval of a Conditional Use Permit. Thus, the proposed incidental alcohol sales to the restaurant use is consistent with the General Plan land use element, and the Eastlake I SPA Plan and Eastlake II PC District Regulations, and will not adversely affect the City's General Plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-12-012 as described above. The following conditions shall apply to the Project Site, and the Applicant or successor-in-interest shall satisfy these conditions prior to issuance of the first building permit for the project, or at the timeframe specified in the condition:

PLANNING DIVISION:

1. The Project Site shall be developed and maintained in accordance with the PCC-12-012 approved plans, which include site plans and floor plans on file in the Planning Division, the conditions contained herein, and the Zoning Ordinance (Title 19). The Applicant or successor-in-interest shall remain in compliance with the conditions as long as the Project relies upon this approval.
2. The Property Owner or authorized representative shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and the Applicant have each read, understood and agreed to the conditions and land use operation modifications contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document prior to submittal for building permits to the Development Services Department shall indicate the Property Owner's and Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Applicant or Authorized Representative

Date

3. The applicant shall obtain an alcoholic beverage control license from the State of CA. ABC prior to commencement of sale of alcoholic beverages. The Applicant shall comply with the applicable State ABC Laws and City Ordinances, and all conditions required by the Chula Vista Police Department pertaining to the sale and consumption of alcoholic beverages
4. This permit is valid for operation of a restaurant with on-site sales of beer and wine only.
5. The hours of operation of the restaurant shall be limited to 11:00 a.m. to 9:00 p.m., daily. Any change in hours of operation shall require review and approval by the Zoning Administrator.
6. The Applicant shall operate the project in compliance with the Performance Standards, CVMC Chapters 19.66 and Performance Standards and Noise Control, Chapter 19.68. If a formal complaint is received by the Director of Development Services, or if the Director determines that the Applicant is not operating in compliance with the conditions of approval of this permit, then the Director has the discretion to initiate an investigation which may include requesting the applicant to submit plans, technical studies such as acoustical studies, or other information deemed necessary to respond to the complaint or non-compliance issue. After review, the Director has the discretion to either maintain the

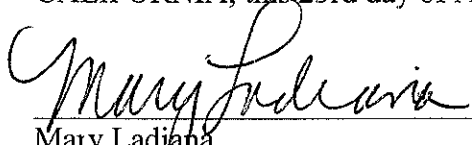
existing Conditional Use Permit, modify the Conditional Use Permit, or revoke the Conditional Use Permit, pursuant to the requirements of CVMC Section 19.14.270.

7. The Applicant, shall operate the business in compliance with the following requirements of the Chula Vista Police Department, including:
 - a. Sales, service and consumption of alcoholic beverages shall be limited to beer and wine only.
 - b. Sales, service and consumption of alcoholic beverages shall only be permitted inside the premises during the current hours of operation.
 - c. Sales, service and consumption of alcoholic beverages shall be prohibited in the outdoor patio area.
 - d. All doors of the business will be kept closed after 9 PM.
 - e. Only persons of the age of 21 or over may purchase, possess, and consume alcohol.
 - f. It will be the duty and responsibility of all restaurant owners, managers, and employees to prevent underage patrons from obtaining alcoholic beverages by closely monitoring clientele and intervening whenever necessary.
 - g. Luna Grill management or designees shall remove and bar from re-entry, any patron involved in providing, furnishing, or passing alcoholic beverages to any individual inside the facility who is under 21 years of age. In addition, Luna Grill management shall remove and bar from re-entry any individual who is under 21 years of age who possesses and/or consumes alcohol inside the facility.
 - h. No person/employee under the age of 21 is permitted to sell or serve alcohol.
 - i. A maximum of two alcoholic beverages are to be sold to any one person at a time.
 - j. The use of any amplifying system or device inside the premises shall not be audible 25 feet outside of the ABC designated alcohol service areas.
 - k. There will be no live entertainment, including DJ's, except that licensed and permitted by the CVPD and the ABC.
 - l. There will be no amplified music on the exterior patio area adjacent to the restaurant except that provided by the overall business complex.
 - m. Loitering is prohibited on or around the premises under control of the applicant. The applicant shall police the area under their control in an effort to prevent loitering.
 - n. Signs must be posted at all exits, to include exits on the patio, advising customers that open containers of alcohol are prohibited outside of the ABC established services areas.
 - o. All servers/managers/owners shall attend LEAD training given by ABC.
 - p. The City of Chula Vista Police Department reserves the right to impose additional security conditions as part of any dance, live entertainment, or special event permit approval process.
8. This Conditional Use Permit for the incidental sale and onsite consumption of alcohol shall be applied to Luna Grill or similar food establishments at this location. In the event that a different type of food establishment is proposed where the sale and onsite consumption of alcohol is a principal and not an incidental use, an amendment to this

Conditional Use Permit or a new Conditional Use Permit shall be required prior to the sale of alcohol.

9. Prior to approval of any request for an amendment of the approved ABC license or this Conditional Use Permit, submit and obtain approval of an application requesting a substantial conformance review or modification of this Conditional Use Permit, for consideration by the Director of Development Services and the Chula Vista Police Department.
10. This permit shall become void if not used or extended within three years of the effective date thereof in accordance with Section 19.14.260 of the Chula Vista Municipal Code. Failure to comply with the any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.
11. Applicant and his/her successors in interest agree to defend, indemnify and hold harmless the City and its agents, officers and employees, from any claim, action or proceeding against the City, or its agents, officers or employees, to attack, set aside, void or annul any approval by the City, including approval by its Planning Commission, City Council or any approval by its agents, officers, or employees with regard to this Conditional Use Permit, provided the City promptly notifies the Applicant of any claim, action or proceeding and on the further condition that the City fully cooperates in the defense.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 23rd day of April, 2012.



Mary Ladiana,
Zoning Administrator